

REMARKS

Claims 1-43 are rejected under the judicially created doctrine of obviousness-type double patenting from claims 1, 19, 29, 35, 41, 45 and 48 of U.S. Patent No. 6,793,959. An executed Terminal Disclaimer is enclosed, together with the required fee. It is respectfully understood that this Terminal Disclaimer overcomes this double patenting rejection. This submission is made without admitting the propriety of the rejection and is done solely in order to serve the statutory function of removing the double patenting rejection, and this action raises neither a presumption nor an estoppel with respect to the merits of the double patenting rejection or the scope and/or proper construction to be given to any claim of any patent to be issued from either the present application or any application or patent related thereto.

Claims 1, 2, 6-13, 24-31 and 34 are rejected under 35 U.S.C. §102(b) from Yang U.S. Patent No. 4,832,975. Inasmuch as the claims are not otherwise rejected, and in view of the presently submitted Terminal Disclaimer, it is respectfully understood that each of claims 3-5, 14-23, 32, 33 and 35-43 is allowable.

Accordingly, claim 3 has been rewritten into independent form, and claims 4 and 5 have been made dependent upon thus amended claim 3.

Furthermore, the subject matter of claim 14 is incorporated into presently amended claim 2, with claim 14 being cancelled. In effect, currently amended claim 2 is claim 14 rewritten into independent form. Each of claims 15 and 16 is directly or indirectly dependent upon said claim 2.

Claim 17 is rewritten into independent form, and claim 18 remains dependent upon claim 17.

Claim 19 is rewritten into independent form.

Claim 20 is rewritten into independent form, and each of claims 21, 22 and 23 is directly or indirectly dependent thereon.

Claim 32 is rewritten into independent form. Claim 33 remains dependent upon claim 32.

Each of claims 35-43 remains as originally filed.

It is respectfully understood that each of the claims identified above is in allowable form and now is independent of any currently rejected claim. The allowance of these claims therefore is respectfully requested, these claims being claims 2-5, 15-23, 32, 33 and 35-43.

Regarding the remaining claims, namely claims 1, 6-13, 24-31 and 34, the Office alleges that Yang discloses an interesterified fat. Applicants respectfully observe that Yang does not disclose or teach interesterification or interesterified fat. Instead, Yang discloses "tailored triglycerides" made by a synthesis process including medium-chain triglycerides and long-chain triglycerides. These tailored triglycerides are not interesterified products.

More specifically, Yang teaches synthesizing reduced-calorie edible fat by a procedure which is definitely not an interesterification process. Applicants further observe that Yang teaches that his tailored triglycerides are the result of a cumbersome and non-efficient synthesis by utilizing fatty acid derivatives, monoglycerides, and diglycerides, onto a glycerol backbone. Applicants report that this synthesis does not produce interesterified fat.

To illustrate this significant difference between the tailored triglycerides of Yang and the interesterified structured lipid of applicants, the following is observed. Applicants' Example 1 provides an illustration of interesterification used to make applicants' claimed structured lipids. Medium chain triglyceride and canola oil (a long chain

edible oil) provide the reactant charge to a reactor vessel in the presence of an interesterification catalyst (sodium methoxide in this Example). The reaction took place in the presence of heating, agitation and reduced pressure, and the interesterified structured lipid was formed.

Intesterification is also described in paragraph [009] of applicant's specification, namely interesterification interchanges individual positions of fatty acids on the glycerol moiety. As explained further in paragraph [0028], interesterification is a reaction to or toward complete randomization, which would equate to a degree of interesterification of 100% of the fatty acyl chains.

No where does Yang suggest or disclose fats that are interesterified fats where moieties are interchanged. Instead, Yang refers to "specially synthesized triglycerides of the present invention" at lines 38-39 of column 3. The Office refers to Example 1 of Yang and suggests that this teaches interesterification. However, Example 1 shows that interesterified structured lipids are not what Yang means by his "specially synthesized triglycerides".

Example 1 of Yang teaches a very involved 5 step process, which is definitely not in accordance with the single reaction

vessel interesterification of applicants' Example 1. Instead, Yang Example 1 teaches the need to first synthesize a monostearin. It further teaches using the monostearin in synthesizing diglyceride in step 2. Yang step 3 prepares unsaturated fatty acids, while step 4 uses those unsaturated fatty acids to prepare unsaturated fatty acid acyl chlorides. Then, in step 5, the diglyceride from step 2 is dissolved and separated to provide a clear solution to which the unsaturated fatty acid acyl chlorides of step 4 are carefully added.

From the above comparison, it is evident that the specially synthesized triglyceride of Yang is not the interesterified structured lipid claimed by applicants. By virtue of this very significant difference between the triglycerides disclosed and taught by Yang and applicants' claimed interesterified structured lipids, reconsideration and withdrawal of the \$102 rejection of Yang are respectfully requested.

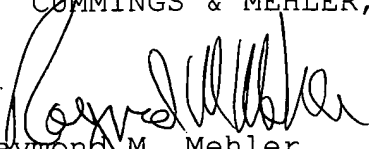
Applicants respectfully believe that each of claims 1-13 and 15-43 are in condition for allowance.

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Respectfully submitted,

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